

# **EXHIBIT A**

**MINDELL** / **LAW**  
attorneys & counselors

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

TRACI STEPHENS,

Case No.: 18-<sup>0310865</sup>  
NO-5  
Hon.

Plaintiff,

DARNELL JACKSON

vs.

(P34737)

BIG LOTS STORES, INC.,  
a Foreign Corporation,

A TRUE COPY

Defendant,

Michael J. Hanley, Clerk

GLENN H. OLIVER (P49062)

MINDELL LAW

Attorney for Plaintiff

32500 Telegraph Road, Suite 104


Bingham Farms, MI 48025

(248) 353-5595/Fax: (248) 948-6677

goliver@mindellfirm.com

COMPLAINT AND DEMAND FOR JURY TRIAL

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

  
Glenn H. Oliver, Attorney for Plaintiff

NOW COMES Plaintiff, TRACI STEPHENS, by and through her attorneys, MINDELL LAW, and in support of her Complaint against the Defendant, states as follows:

1. That Plaintiff, TRACI STEPHENS, is and has been at all times

pertinent hereto, a resident of the City of Saginaw, County of Saginaw, State of Michigan.

2. That Defendant, BIG LOTS STORES, INC., is a Foreign Corporation conducting business in the City of Saginaw, County of Saginaw, State of Michigan.

3. That this cause of action arises from an incident which occurred on July 12, 2015, where Plaintiff, TRACI STEPHENS, was injured on a premises owned by Defendant located at 2580 Tittabawassee Road, in the City of Saginaw, Michigan, when merchandise on Defendant's shelf, which had been negligently placed and/or stocked, and as a direct result of Defendant's general negligence and/or the general negligence of Defendant's employees, agents, representatives, ostensible agents, or independent contractors, fell directly on Plaintiff TRACI STEPHENS, causing injuries.

4. That the amount in controversy exceeds TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS, exclusive of costs, interest, and attorney fees.

#### **COUNT I**

#### **GENERAL NEGLIGENCE**

5. That Plaintiff realleges paragraphs 1 through 4 of Plaintiff's Complaint.

6. That on or about July 12, 2015, Plaintiff was shopping in an aisle of Defendant's store located at 2580 Tittabawassee Road, in the City of Saginaw, Michigan after Defendant's employees had negligently placed and/or stocked

merchandise on Defendant's shelves.

7. That Defendant owed to Plaintiff, TRACI STEPHENS, a duty to exercise ordinary care to protect her from unreasonable risks of injury that were known or should have been known to Defendant and/or work created by Defendant.

8. That Defendant owed Plaintiff, TRACI STEPHENS, a duty to exercise reasonable care in placing merchandise on its shelves in a safe manner.

9. That Defendant was then and there guilty of one or more of the following acts and omissions, in violation of their duties to Plaintiff, TRACI STEPHENS, to wit:

- a. Defendant failed to use reasonable care by improperly placing and/or stocking merchandise on its shelves;
- b. Defendant failed to exercise reasonable and ordinary care to protect Plaintiff from injury;
- c. Defendant failed to train its employees in exercising reasonable and ordinary care to protect Plaintiff from injury;
- d. Defendant allowed untrained and inexperienced employees to create unreasonable risks of harm for its customers;
- e. Defendant by and through its employees negligently placed and/or stocked merchandise on its shelves in an unreasonably dangerous manner, leading to injury to Plaintiff; and
- f. Other acts of negligence that will be revealed through discovery.

10. That as a direct and proximate result of the general negligence of Defendant, Plaintiff, TRACI STEPHENS, suffered the following severe, permanent, and painful physical injuries including but not limited to: Injuries to

her left shoulder and arm requiring left shoulder surgery, as well as injuries throughout her body, causing her to incur significant medical expenses and come under the care of hospitals and physicians.

11. That should it be determined that Plaintiff suffered from any pre-existing relevant diseases or conditions, then such diseases or conditions were accelerated and/or exacerbated by the incident complained of in this action.

12. That as a direct and proximate result of Defendant's general negligence, Plaintiff, TRACI STEPHENS, suffered the aforementioned severe and permanent damages causing her to suffer otherwise unnecessary humiliation, disability, permanent disfigurement, physical pain and suffering, embarrassment, humiliation, loss of enjoyment of life, loss of earnings and loss of earning capacity, as well as any other damages allowable by law.

WHEREFORE, Plaintiff, TRACI STEPHENS, respectfully requests an award of damages in whatever amount in judgment against Defendant, BIG LOTS STORES, INC., in such amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS to which the Plaintiffs may be found entitled, together with interest, costs and attorney fees.

**COUNT II**  
**PREMISES LIABILITY**

13. Plaintiff hereby realleges and incorporates by reference, each and every one of the allegations in paragraphs 1-12, as though fully set forth herein.

14. That on or about July 12, 2015, Plaintiff, TRACI STEPHENS, was lawfully on the premises of 2580 Tittabawassee Road, in the City of Saginaw, Michigan as a business invitee.

15. That the above identified premises was owned, controlled and/or possessed by Defendant, BIG LOTS STORES, INC., and Plaintiff was present on the premises with Defendant's express and/or implied permission, bestowing a benefit upon the owner.

16. That Defendant, BIG LOTS STORES, INC., owed a duty to Plaintiff, TRACI STEPHENS, to maintain the premises in a reasonably safe condition.

17. That Defendant, BIG LOTS STORES, INC., owed a duty to Plaintiff, TRACI STEPHENS, to be aware of all dangerous conditions that involved an unreasonable risk of harm to others, including Plaintiff.

18. That Defendant, BIG LOTS STORES, INC., owed a duty to Plaintiff, TRACI STEPHENS, to inspect for dangerous conditions on the premises that would not be discovered by others, including Plaintiff.

19. That Defendant, BIG LOTS STORES, INC., owed a duty to Plaintiff, TRACI STEPHENS, to exercise reasonable care to make all known, unknown, and latent dangerous conditions on the premises safe for others, including Plaintiff.

20. That Defendant, BIG LOTS STORES, INC., owed a duty to Plaintiff, TRACI STEPHENS, to warn her and others of all dangerous conditions on the premises and the risks involved therewith.

21. That Defendant, BIG LOTS STORES, INC., knew or should have known of the dangerous condition existing on the premises, to wit: negligently and poorly placed merchandise upon Defendant's shelves.

22. That on or about the above date and place, Plaintiff, TRACI STEPHENS, had merchandise fall on her from Defendant's shelf above her head as a result of the dangerous and unsafe condition on Defendant's premises, to wit: negligently and poorly placed merchandise upon Defendant's shelves.

23. That Defendant, BIG LOTS STORES, INC., was then and there guilty of one or more of the following acts and omissions, in violation of the duties to Plaintiff, TRACI STEPHENS, to wit:

- a. Defendant failed to properly maintain the premises in a reasonably safe condition;
- b. Defendant failed to inspect and discover the dangerous conditions existing on the premises;
- c. Defendant failed to realize the unreasonable risk of harm created by the dangerous conditions existing on the premises;
- d. Defendant failed to anticipate that Plaintiff would not discover or realize the latent and dangerous conditions existing on the premises;
- e. Defendant failed to exercise reasonable care to correct and make safe the unreasonably dangerous conditions existing on the premises, despite being fully aware of the potential harm to Plaintiff and others;

- f. Defendant failed to give adequate notice or warning to Plaintiff of the dangerous conditions existing on the premises;
- g. Defendant failed to properly stock and place merchandise on its shelves thereby failing to allow Plaintiff to traverse the premises in a reasonably safe manner;
- h. Other acts of negligence.

24. That as a direct and proximate result of Defendant's, BIG LOTS STORES, INC.'s, herein described negligence, Plaintiff, TRACI STEPHENS, fell and suffered severe and permanent injuries including but not limited to injuries to her left shoulder and arm requiring left shoulder surgery, as well as injuries throughout her body, causing her to incur significant medical expenses and come under the care of hospitals and physicians.

25. That as a result of her injuries, Plaintiff, TRACI STEPHENS, has come under the care of hospitals and physicians.

26. That as a proximate result of Defendant's, BIG LOTS STORES, INC.'s herein described negligence, Plaintiff, TRACI STEPHENS, has suffered damages, including but not limited to pain and suffering, shock, mental anguish, embarrassment, permanent disfigurement, loss of enjoyment of life, loss of earning capacity and medical expenses.

WHEREFORE, Plaintiff, TRACI STEPHENS, prays for judgment against Defendant, BIG LOTS STORES, INC., in whatever amount in excess of Twenty

Five Thousand (\$25,000) Dollars, that the trier of fact finds Plaintiff to be entitled, plus interest, costs and reasonable attorney fees.

Respectfully submitted,

MINDELL LAW

BY:

  
GLENN H. OLIVER (P49062)  
Attorney for Plaintiff  
32500 Telegraph Road, #104  
Bingham Farms, MI 48025  
248) 353-5595  
[goliver@mindellfirm.com](mailto:goliver@mindellfirm.com)

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, TRACI STEPHENS, by and through her attorneys,  
MINDELL LAW and hereby demands a trial by jury of the within matters.

Respectfully submitted,

MINDELL LAW

BY:

  
GLENN H. OLIVER (P49062)  
Attorney for Plaintiff  
32500 Telegraph Road, #104  
Bingham Farms, MI 48025  
(248) 353-5595  
[goliver@mindellfirm.com](mailto:goliver@mindellfirm.com)